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Agenda items 6 and 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[23 July 1992]

1. The International Federation of Human Rights (IFHR) and its affiliate organization, the Viet Nam Committee on Human Rights (Viet Nam Committee) welcome the measures taken in 1992 by the Socialist Republic of Viet Nam to release a number of political prisoners and instigate economic reform. Nevertheless, the IFHR and the Viet Nam Committee are deeply concerned about a wave of political trials in the Socialist Republic of Viet Nam during 1991 and 1992 in which prisoners of conscience and political prisoners were condemned to heavy prison sentences on charges of alleged "crimes against national security". Accounts of recent and forthcoming trials in the Viet Namese official press indicate that none of the accused were involved in armed or

violent acts which could be perceived as a real threat to national security, but were simply engaged in legitimate political or religious activities, or in the peaceful exercise of their right to express their opinions or beliefs.

2. The IFHR and the Viet Nam Committee are particularly concerned about the recent trials and forthcoming trials of prisoners of conscience under Chapter 1 of the Socialist Republic of Viet Nam Criminal Code relating to "especially dangerous crimes against national security".

(a) Doan Thanh Liem, a lawyer, and Nguyen Tri, a poet, were brought to trial at the Ho Chi Minh City Court on 14 May 1992 and sentenced respectively to 12 and 8 years' imprisonment for circulating "anti-socialist propaganda". Doan Thanh Liem was arrested on 23 April 1990, reportedly for his connections with American business consultant Michael Morrow, who himself was arrested and subsequently expelled from Viet Nam in April 1990. Nguyen Tri had previously spent some years in "re-education camp";

(b) Nguyen Ngoc Dat was sentenced to 20 years' imprisonment by the People's Court in Ho Chi Minh City on 28 May 1992, charged with "activities aimed at overthrowing the people's government" (art. 73, (1)). Four others, Le Van Trinh, Tran Huu Duyen, Nguyen Van Hoang and Huyuh Van Cai were convicted at the same time under articles 73 (1) and 73 (2) to sentences ranging from 4 to 12 years' imprisonment. According to Hanoi Moi (New Hanoi, 29 May 1992), the five will remain under house arrest from two to five years after completing their prison sentence. Nguyen Ngoc Dat was accused of writing documents such as "Essay on Humanism", and "Message from the Committee of Sects for the Defence of Buddhism in Viet Nam" that sought to "arouse the masses to oppose the (communist) party. An account of the trial published in Ho Chi Minh City magazine Phap Luat (Law, 1 June 1992) reports that "all five denied their partipication in illegal activities", and indicates that no lawyer presented a case for their defence";

(c) The forthcoming trial of Professor Doan Viet Hoat has been widely reported in the Vietnamese press. Dr. Hoat, formerly Assistant Rector of Van Hanh University, was first detained without trial for 12 years in re-education camp (1976-1988), then arrested again on 19 November 1990 and detained in Phan Dang Luu, then Ham Tan prison camp. He will be brought to trial on charges of "activities aimed at overthrowing the people's government" (art. 73), which carries a maximum penalty of the death sentence. The charges against him include his participation in an underground publication, the "Freedom Forum" which advocated democracy and pluralism. Dr. Hoat will stand trial with eight others who were also arrested in November 1990. They are Pham Duc Kham, Bui The Dung, Nguyen Xuan Dong, Le Duc Vuong, Pham Thai Thuy, Nguyen Van Thuan, Hoang Cao Nha and Nguyen Thieu Hung. Former Member of Parliament Nguyen Mau, also arrested in November 1990 who was to stand trial with this group died in detention on 21 January 1992 from lack of medical treatment. The IFHR and the Viet Nam Committee raised the case of Dr. Hoat and all these prisoners of conscience in their statements at the forty-seventh and forty-eighth sessions of the Commission on Human Rights in February 1991 and 1992;

(d) "Saigon Giai Phong" (Saigon Liberation, 5 May 1992) reports the forthcoming trial of Trinh Van Thuong, Nguyen Thanh Van, Nguyen Duc Loi and six others on charges of "aiming to overthrow the people's government". They are accused of forming a movement called the "Lien Viet Front" and distributing leaflets calling for democracy, writing slogans on banknotes and public places in an operation entitled "Voting on Walls" and organizing peasants' demonstrations calling for land reforms. They were arrested on 16 June 1992.

3. The IFHR and the Viet Nam Committee consider that the acts for which the above persons were or will be convicted are legitimate activities related to the peaceful exercise of every citizen's right to freedom of expression and association as guaranteed by articles 18, 19 and 22 of the International Covenant on Civil and Political Rights of which the Socialist Republic of Viet Nam is a State party. The IFHR and the Viet Nam Committee believe that Viet Nam continues to subordinate individual freedoms to the interests of the State, and is invoking articles related to "especially dangerous crimes against national security" (Criminal Code, chap. 1, arts. 72-86) with the sole aim of arresting and detaining critics of the Government and the Communist Party of Viet Nam.

4. Furthermore, the IFHR and the Viet Nam Committee are concerned that the political trials quoted above do not conform to international standards, despite provisions in the Criminal Procedure Code which guarantee the right to a fair trial. The accused are not allowed independent legal counsel, and their previous detention in re-education camps is used as a charge against them even though they were never convicted of any offence. This constitutes a grave violation of article 14 (2) of the ICCPR which embodies the fundamental principle that accused persons are presumed innocent until proved guilty. This principle is also seriously undermined by publication of forthcoming trials and accusations in the official media and press.

5. The conviction of Dr. Nguyen Dan Que and Nguyen Van Thuan to 20 and 10 years' respective imprisonment by the People's Court in Ho Chi Minh City on 29 November 1991 also seems to result from an unfair trial. Dr. Que was denied independent legal counsel, and not allowed to prepare an adequate defence. Furthermore, he was accused under article 74 (1 c) which defines it a crime to "supply information and documents which are not State secrets so they can be used by a foreign country against the Socialist Republic of Viet Nam". The IFHR and the Viet Nam Committee believes this article is inconsistent with the International Covenant on Civil and Political Rights, article 19 (2) which guarantees the right to "seek, receive and impart information and ideas of all kinds, regardless of frontiers".

6. The IFHR and the Viet Nam Committee is also deeply concerned about a number of prisoners of conscience arrested in 1990 and 1991 who have still not been brought to trial. They include the poet To Thuy Yen (real name Dinh Thanh Tien) who was arrested in December 1990, and is now detained in P40 prison, Ho Chi Minh City. Other writers arrested in December 1990 in a widespread Government crackdown on suspected critics are the poets Mai Trung Tinh and Vuong Duc Le, journalist Ho Nam (real name Le Nguyen Ngu). Business consultant Do Ngoc Long, who was arrested with lawyer Doan Thanh Liem in 1990, is also detained without trial, and has reportedly been transferred

to a prison hospital due to serious illness. These persons are believed to be detained under provisions in the 1988 Criminal Procedure Code relative to temporary detention, i.e. article 61, which empowers the authorities to detain persons without charge "to promptly stop a criminal action", and articles 70 and 71 which allow temporary detention up to four months, and add that "when necessary, for crimes of particular danger to national security, the Chief Procurator may further extend the period". The IFHR and the Viet Nam Committee believe that these articles potentially condone indefinite detention without trial, and are therefore totally incompatible with the Covenant on Civil and Political Rights and all international human rights standards.

7. The IFHR and the Viet Nam Committee are particularly disturbed by the continued detention of members of religious communities solely on account of their non-violent religious beliefs. Many Buddhists, Catholics, Protestants, Hoa Hao and Cao Dai followers are detained without trial or subject to unfair trials: Roman Catholic Father Chan Tin and intellectual Nguyen Ngoc Lau have been under house arrest since 16 May 1990 for "activities aimed at opposing socialism", and Father Tran Dinh Thu, 86 years old, is serving a 20 year sentence at Xuan Loc Camp, Dong Nai province. This is a direct violation of article 18 of the Covenant on Civil and Political Rights, which is a non-derogable right (art. 4 (2) of the Covenant), and article 70 of the 1992 Vietnamese Constitution which guarantees the right to freedom of conscience and religion.

8. Of particular concern is the repressive action taken by the authorities against leaders of the Unified Buddhist Church of Viet Nam. In May 1992, following the death of Patriarch Thich Don Hau, the authorities attempted to impose a State-organized ceremony in place of the traditional Buddhist funeral rites requested by the late Patriarch in his testament. Fifty Buddhist monks went on hunger strike at Linh Mu Pagoda in Hue, the Venerable Thich Tri Tuu prepared to immolate himself, and over 30,000 Buddist flocked the streets in protest. This repressive action follows the systematic arrests of the leaders of the Unified Buddhist Church of Viet Nam (An Quang Pagoda). The IFHR and the Viet Nam Committee are especially concerned about the situation of:

(a) Thich Huyen Quang, Head of the Unified Buddhist Church of Viet Nam Institute for the propagation of the Dharma and Thich Quang Do, General-Secretary of this Institute, who are both under house arrest in their native villages, Thich Huyen Quang in Quang Ngai (Central Viet Nam) and Thich Quang Do in Thai Binh (North Viet Nam). First arrested in 1977 and detained for 20 months in total isolation, they were released in 1978, then arrested in 1982 and banished to their native villages and forbidden from exercising any religious function. They have never been given the reasons for their arrest, or granted the right of a fair trial. The indefinite confinement of Thich Huyen Quang and Thich Quang Do in their native villages without sentence before a court of law violates the Criminal Procedures Code of the Socialist Republic of Viet Nam (art. 10) which guarantees that "no one may be considered guilty or forced to undergo punishment without a court judgement that has taken legal effect". Even in cases of pre-trial detention or house arrest pending investigation, four months is the maximum detention period (art. 71), following which "if sufficient proof of an alleged crime is not produced, detained persons must be immediately released" (art. 69);

(b) Thich Duc Nhuan, former Secretary-General of the Institute of the Sangha, who was arrested in 1984 along with other Buddhist leaders, is serving 10 years hard labour in Camp Z.30, Ham Tan. He is in extremely poor health;

(c) Thich Tue Sy, philosopher and writer, and Thich Tri Sieu (Le Mauh That), historian, were arrested in 1984 and condemned to death in 1988. Their sentence was commuted to 20 years imprisonment following an international campaign on their behalf. They are detained respectively in Camp A.20 in Xuan Phuoc, Thuy Hoa district and Xuan Loc Camp, Dong Nai province.

9. The IFHR and the Viet Nam Committee are deeply concerned by these grave and systematic violations of human rights and once again urge the authorities to allow an inquiry mission of independent international observers to be sent to investigate this situation on the spot. Furthermore, the International Federation of Human Rights and the Viet Nam Committee on Human Rights strongly call upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to examine the human rights situation in the Socialist Republic of Viet Nam during its forty-fourth session.